

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 * * *

9 FREDERICK L. CAERY,

Case No. 2:18-cv-00730-JCM-CWH

10 Plaintiff,

ORDER

11 v.

12 CLARK COUNTY DETENTION
CENTER, et. al.,

13 Defendants.

14 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by
15 a former state prisoner. On February 6, 2019, this court issued an order directing Plaintiff
16 to file his updated address with this court within thirty (30) days. (ECF No. 3.) The thirty-
17 day period has now expired, and plaintiff has not filed his updated address or otherwise
18 responded to the court's order.

19 District courts have the inherent power to control their dockets and "[i]n the
20 exercise of that power, they may impose sanctions including, where appropriate . . .
21 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
22 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
23 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
24 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
25 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal
26 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
27 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
28 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*

1 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
2 failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the court must consider several factors:
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
8 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
9 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 In the instant case, the court finds that the first two factors, the public's interest in
11 expeditiously resolving this litigation and the court's interest in managing the docket,
12 weigh in favor of dismissal. The third factor, risk of prejudice to defendants, also weighs
13 in favor of dismissal, since a presumption of injury arises from the occurrence of
14 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
15 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
16 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
17 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
18 the court's order will result in dismissal satisfies the "consideration of alternatives"
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
20 F.2d at 1424. The Court's order requiring Plaintiff to file his updated address with the
21 Court within thirty (30) days expressly stated: "It is further ordered that failure to comply
22 with this order will result in a recommendation that the case be dismissed without
23 prejudice." (ECF No. 3 at 2.) Thus, Plaintiff had adequate warning that dismissal would
24 result from his noncompliance with the Court's order to file his updated address within
25 thirty (30) days.


26 It is therefore ordered that this action is dismissed without prejudice based on
27 Plaintiff's failure to file an updated address in compliance with this court's February 6,
28 2019 order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further order that the application to proceed *in forma pauperis* (ECF No. 1) is denied as moot.

It is further ordered that the Clerk of Court shall enter judgment accordingly.

DATED March 19, 2019.


UNITED STATES DISTRICT JUDGE